6-1-1993

Impact of the North American Free Trade Agreement on the Southern California Business Community

SYMPOSIUM: BUSINESS AND INVESTMENT LAW IN THE UNITED STATES AND MEXICO†

Impact of the North American Free Trade Agreement on the Southern California Business Community

I. INTRODUCTION

FREDERICK HILL:*

This program intends to raise the level of awareness of the North American Free Trade Agreement ("NAFTA") currently under negotiation between the United States and Mexico. The program explores NAFTA's impact on business between Mexico and California. The United States has a tremendous need to work together with Mexico and Canada, and to develop more competitiveness. This is best accomplished by increasing available jobs and training while decreasing protectionism.

Mexico's present administration realizes that protectionistic policies simply do not work. This realization is fundamentally important, and the United States must examine California's opportunities to export to Mexico. Already, there has been a tremendous increase in exports to Mexico. If approved, NAFTA will be an instrument to further this development. California can either take advantage of these opportunities, particularly with respect to exports that could be sold to Mexico's eighty-five million people, or it can hold back by being protectionistic. Protectionism simply does not work.

With this introduction, Russell Bennett will provide some statis-

---

† This Symposium originally took place on October 4, 1991, in Los Angeles, California. It was presented by the International Law Section of the Los Angeles County Bar Association. Participating organizations were: the State Bar of California, International Law Section; the Mexican American Bar Association; the Consulate General of Mexico, Los Angeles office; the U.S./Mexico Chamber of Commerce, Pacific Chapter; the Latin Business Association; and the Hispanic Alliance for Free Trade. It should be noted that the conversational tone of the Symposium has been preserved.

* B.A., Western Michigan University, 1960; J.D., University of California, Hastings College of Law, 1964. Mr. Hill is an attorney at Overton, Lyman & Prince in Los Angeles. He was the Conference Chairman for this Symposium.

tics and guidance as to how he sees NAFTA's impact on business in Southern California. Then, Elsa Saxod from the California Governor's Office will speak to us on what Governor Pete Wilson has done to promote NAFTA, and how the Governor's office views the recent developments.

II. MEXICAN STATISTICS RELATED TO TRADE

RUSSELL BENNETT:*

I put together some basic facts on Mexico to serve as a framework as you hear the different panelists today. These statistics illustrate the current importance of Mexico-California or California-Mexico trade.

We are all aware that the world is gravitating toward various trade blocks for geographic and political reasons. Most obvious is the European Common Market. Less obvious, but very strong, is the Yen Bloc in East and Southeast Asia, which includes Malaysia, Taiwan, Hong Kong, Singapore, Thailand, and Indonesia. These countries come increasingly within the sphere of Japan's influence even though they have no free trade agreements. With European companies looking inside their extended economic borders, and with Japanese companies investing increasingly in their own geographic backyard, the United States must exploit its own sphere of economic influence to create a matching trade block. The United States and Canada already operate under a free trade agreement and the United States Congress has agreed to the fast track approval process for an agreement to be negotiated and signed with Mexico. However, there exists a substantial lack of understanding in this country about Mexico and the potential benefits that it brings to the free trade agreement.

Mexico's population of eighty-five million is roughly one third of the population of the United States. Potentially, NAFTA may create an increase in consumption of United States exports commensurate with the increase in purchasing power that this population achieves. Mexico is the world's thirteenth largest country geographically; 764,000 square miles, and the eleventh largest by population. It is the fourth largest owner of oil reserves in the world and the largest producer of silver, among other mining goods. The major exports of Mexico include petroleum, cotton, coffee, tomatoes, shrimp, copper,

---

* B.A., M.B.A., University of the Americas, 1969, 1971. Mr. Bennett is an international business consultant to management specializing in Mexico. He is a citizen of the United States who has lived in Mexico for over thirty years, and has been based in San Diego for the past four years.

automobile engines, sulphur, and cattle. Meanwhile, Mexico's major imports are automobile parts, machinery, equipment, corn, sorghum, and soybeans. The gross national product of Mexico was $202 billion in 1989.

Presently, California exports more than $4.2 billion in goods to Mexico each year. Some of the major exports from California to Mexico include agricultural crops, food products, lumber and wood products, chemical products, petroleum refining equipment, rubber and plastics, transportation equipment, electronic equipment, computers and industrial machinery, military equipment, and paper products. These sales account for $3.1 billion, and there is still another $1 billion that is divided into smaller export items. In 1989, almost eight percent of California's worldwide exports went to Mexico. The opening of trade in Mexico will naturally contribute to an increase of California's exports to that country. Moreover, a well negotiated and fair free trade agreement will create jobs in Mexico as well as in California and other states. NAFTA will also help Mexico's middle class expand, and this will, in turn, increase the demand for United States goods and tourism in the United States. Even now, California represents one of the main beneficiaries of Mexican tourism.

The United States Department of Commerce and the Department of Labor suggest that at least 25,000 jobs are created in the United States for each one billion dollars of exports. This means that over 100,000 jobs in California alone are supported by exports to Mexico. Economists project that another 300,000 to 500,000 jobs will be created in the United States in the first three years of operation of a free trade agreement, due to greater United States exports to Mexico. NAFTA's creation of jobs in Mexico will also stem Mexican immigration to the United States. Moreover, it will keep United States research and technology on the North American continent, as production of the resulting goods designed can take place in Mexico as opposed to the Asian Pacific.

NAFTA will also instigate a greater volume of trade between Mexico and Canada with substantial railroad and highway transportation through California and other states. Traditionally, all trade between Canada and Mexico must pass through the United States, often utilizing United States shipping lines. Thus, NAFTA will create new markets in Mexico for many California goods and services.

California sells over $4 billion of goods and services to Mexico and makes purchases from Mexico in a similar amount. But the current two-way trade of over $8 billion a year represents only a fraction of the potential available under a working free trade agreement. Consider the opportunities in franchising, manufacturing in Mexico, both for the domestic population as well as for re-import to the United States, and in Mexico's purchasing of parts, and the United States' purchasing parts, raw materials, or subcontract services. All of these opportunities exist in Mexico because of the increasing open market mentality. These activities and others will become more easily accomplished with the passage of a free trade agreement. The United States, Canada, and Mexico *need* each other, and must work closely together for their mutual long-term economic survival and success.

III. CALIFORNIA'S INVOLVEMENT IN NAFTA

ELSA SAXOD:*

Governor Pete Wilson's understanding of California's status as a border state arose from his personal experience as mayor of San Diego for over eleven years. Upon his inauguration as Governor, Governor Wilson restructured his staff to create a team of trade and international relations specialists, reflecting his desire to solidify California's position in the global economy. He created the positions of Special Assistant to the Governor on Trade, and Special Assistant to the Governor for International Relations, which are both located in Sacramento. The State of California also has an Office of Trade and Investment located in Mexico City, and the Office of California-Mexico Affairs located in San Diego. With the aid of his administration, the Governor began working on the United States Congress to ensure passage of "Fast Track."

Currently, Canada is the United States' single largest trading partner, while Mexico is our third largest trading partner. This combined three-way trade totaled $237 billion in 1990. Mexico represents the United States' fastest growing export market, with Mexico's exports to the United States growing twice as fast as those to the rest of the world market. Similarly, since 1986, United States' exports to Mexico have more than doubled, with particular gains in agriculture and manufacturing. As a result of this export growth, approximately 264,000 export-related United States jobs have been created. For California, this means that one of every ten California jobs is tied to this international trade market.

---

* Elsa Saxod is a graduate of San Diego State University. In February 1991, Ms. Saxod was appointed Director of the Governor's Office of California/Mexico Affairs in San Diego. The office serves as a link between Mexico and the Governor, and focuses on California issues that transcend the border.

The United States and Canada presently possess a free trade agreement. Meanwhile, the United States is linked to both Canada and Mexico in social and economic ways. Yet, many important barriers still remain between the United States and Mexico. NAFTA would link the three economies in more far reaching ways, which would be beneficial to all three countries. This signifies the rationale for the proposed NAFTA.

However, many important issues must be covered in the NAFTA negotiations. For example, Mexico's average tariffs are still two and one-half times as high as the United States'. While Mexico did unilaterally lower some of the tariffs, it can increase them at any time. Moreover, in agriculture, Mexico requires import licenses on about 40% of the United States' agricultural exports in grains, poultry, dairy products, and certain fruits and vegetables. Similarly, import quotas and requirements that only Mexican products be used in local manufacturing impact on many industries and sharply restrict the United States' ability to export automobiles to Mexico. In addition, foreign investors wishing to invest in service-providers are precluded from investing in strategic sectors, such as petrochemicals and finance. These examples are representative of the issues to be negotiated under NAFTA.

In order to conduct these negotiations, President Bush requested an extension of the so-called "Fast Track" procedures which apply to legislation implementing trade agreements entered into after May 31, 1991, and before June 1, 1993. At the conclusion of the negotiations, if the President enters into NAFTA, implementing legislation would be submitted by the Administration to Congress subject to the Fast Track process. In essence, this means that the NAFTA can be approved or rejected, but not amended. For California, Fast Track is a desirable negotiating tool. The United States' trading partners would never negotiate their bottom line only to have it amended or subject to renegotiation in the Congressional approval process.

In February 1991, at the Board of Governor's conference in Mexico, Governor Wilson, along with four border governors from the United States and six from Mexico, went on record as supporting Fast Track to achieve NAFTA. This conference initiated months of work to assure California residents that their concerns and interests would be brought to the federal government. Additionally, Governor Wilson lobbied California's congressional delegation to vote in favor of Fast Track. The result was that, in May 1991, Congress approved

Fast Track. The NAFTA negotiations were officially opened in a trilateral meeting on June 12, 1991, in Toronto, Canada. However, seventeen of California's forty-five congressional delegates voted against the consideration of a free trade agreement with Mexico by voting against Fast Track.

The first phase of the negotiations concentrated on developing information and conducting hearings on the nature and scope of the negotiations and on identifying the key issues for negotiation. The later phase, currently underway, is the negotiations themselves, which are conducted by breaking down the issues into six negotiating areas: 1) market access; 2) trade regulation; 3) services; 4) foreign investment; 5) intellectual property; and 6) dispute settlements. Governor Wilson hopes that a solid agreement can be negotiated between United States Trade Representative Carla Hills and Mexican Secretary of Commerce, Dr. Jaime Serra Puche. Such an agreement would achieve these goals. First, it would deal comprehensively with all areas of bilateral commercial activity, including those not presently covered by the General Agreement on Tariffs and Trade. This includes items such as services, intellectual property, and environmental protection. Second, the agreement would in no way decrease consumer protection and food safety standards, ensuring that products coming from Mexico meet the United States' standards. Free trade should not entail damage to public safety or to the environment. Third, it would provide an adequate opportunity for economic adjustments in industries placed at risk by eliminating trade restrictions. In California, that, of course, means agriculture.

The more specific areas of concern in the Free Trade negotiations for California include border issues, transportation issues, intellectual property, market access, investment, tariffs, and the environment. President Bush, Mexican President Salinas, and Canadian Prime Minister Mulroney expect the negotiations to succeed. Governor Wilson is optimistic as well because a solid agreement that would benefit the United States and Mexico will also ultimately benefit California. Today there is a strong, genuine, and growing relationship between the two countries. NAFTA's success will strengthen this era of progress and cooperation, not only in trade, but in the broader agenda between the United States and Mexico.